

CARAVAN OF LIGHT PUBLICATIONS

LISTENING AND OBEDIENCE

A Refutation against those who advocate for
listening and obeying Ṭawāghīt and those who
advocate for fighting against the legitimate Imām
based on bāṭil claims of oppression

By 'Allāmah Aḥmad Shākir

وذكر فإن الذكرى تنفع المؤمنين

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Imām Ahmad b. Hanbal said in the musnad of 'Abdillāh b. Omar:

Yaḥyā narrated to us from 'Ubaydillāh: Nāfi' informed me from Ibn Omar that the Prophet ﷺ said: *Upon a man is to hear and obey in whatever he loves and hates, except when he is commanded with disobedience, and when he is commanded with disobedience then there is no listening and no obedience.*

It's isnād is ṣaḥīḥ, and it was narrated by Bukhārī (6/82 and 13/109 from Fath al-Bārī) from Musaddad from Yaḥyā b. Sa'īd with this isnād, and he also narrated it (6/82) from the path of Ismā'īl b. Zakariyyā from 'Ubaydillāh. And it was narrated by Muslim (6/86) from the way of Layth b. Sa'd, and from the way of Yaḥyā al-Qaṭṭān and Ibn Numayr – all three from 'Ubaydillāh.

This ḥadīth is a significant foundation from the foundations of governance. We are not aware of anything in the legislation or any (non-Islamic) law which would come with such a strong and exact definition, which defines the authority of the ruler, and still preserves the dīn and honour of the ruled-over.

This has led the kings, leaders, and governments in lands which are ruled by (non-Islamic) systems and laws, to require the ones who are addressed by this ḥadīth, that he should not be reluctant to carry out whatever they command him.

And their subjects would not carry out what they were commanded, unless it agrees with their whims and desires. Otherwise they would cut corners, as long as they found a way in which they are not pursued by any punishment or fear.

And all of this is invalid and corrupt, disordering governance and disturbing the ruling systems in place and policies. They do not consider obedience obligatory upon themselves, and only obey when they are near-compelled if it does not suit their desires or it is something they dislike.

As for the Islāmic law, then it has laid a sound foundation and airtight legislation with this great ḥadīth. A Muslim has to obey the one who has the right to command among the Muslims, in what he likes and in what he hates, and this is an obligation upon him. And if he cuts corners in this, then it is like cutting corners in ṣalāh or zakāh or what is similar to these two from the obligations of the dīn which Allāh has made obligatory upon him.

Then it has restricted this obligation to what is correct and precise, giving the responsible person the right to estimate what he was assigned to carry out, for if someone commands him with disobedience, then there is no listening nor obedience, and it is not permissible for him to disobey Allāh by obeying the creation, and he will be asked about his action, just like the one who commanded him to carry it out.

This is understood intuitively. The disobedience in which the one commanded must not obey the one commanding him, is an evident disobedience which the one commanded cannot try to reinterpret until he deludes himself that he refused to carry it out because he was commanded with disobedience, deceiving himself and others.

We will look at some examples of what people understand in our time to clarify what is meant:

1. A subject is commanded by one who has the right to command, to move from a country he loves to a country he hates, or from a job he deems worthy, to a job that is beneath him. Or that he is commanded with severe hardship, he must obey the one who has the right to command him. There is no alternative for him – whether he likes or hates it – to refuse to obey the command is sinful, and his refusal is prohibited, whether it was a clear and evident refusal, or a hidden kind of refusal, fogged with made-up excuses. The one commanded grows resentful due to unfair treatment, or outraged by being oppressed in his right, and that may be correct, but he must obey anyway, because oppression in matters such as these is often only assumed, and the views and opinions of each person will differ regarding it. And in this situation, the one commanded is to look at himself and judge for himself, because rarely does a person ever correctly assume that his rights are being infringed upon, and he is often overcome by his own whims. Perhaps the one commanding him was working on the basis of more complete information, evaluating the various sides to it, and his estimation is closer to the reality, if he did not do what he did out of clear whim or anger. This kind of oppression would be prohibited, however it is only prohibited upon the one commanding it. As for the one commanded, then he is not commanded with a disobedience, because the command itself is not disobedience, but what is taking place of disobedience is on the side of the one commanding.

2. We see that some of these laws permit prohibited actions, which there is no doubt about their prohibition, like zinā and buying alcohol and what is similar to that, and their permission is conditioned by licenses which are issued to particular individuals by the law. This officer who is commanded by these laws to issue licenses to do these actions once their pre-requisites are fulfilled to whoever requests a license – it is not permitted for him to obey what he is commanded with of issuing these licenses which permit clear-cut ḥarām, and if the law commands him with this then he has been commanded with disobedience, so there is no listening nor obedience. As for the one who views issuing these licenses permissible, then he has disbelieved and left Islām due to permitting clear-cut ḥarām whose prohibition is known from the dīn by necessity.
3. In some of the Muslim lands we see laws which are imposed upon them by the polytheistic European atheists, and these are laws which contradict Islām in its core in many of their foundations and branches. Rather in some of them they nullify and destroy Islām, and that is a clear, self-evident matter. Nobody disagrees with this except the one who deludes himself and is ignorant of his dīn and opposes it without awareness. It is also the case that many of their rulings are in agreement with Islamic laws, or do not contradict them except a little. To act upon them in the lands of Muslims is not permitted even in that which agrees with Islamic laws, because the one who put them in place did not consider their agreement with Islām or opposition to it, rather he looked at their agreement with the laws of Europe or their norms and principles, and made them a foundation toward which he returns, thus he is a transgressing murtadd by that, regardless of whether he put in place rulings which agree with, or oppose, Islām. Imām Shāfī established a beautiful principle regarding this matter, however those who legislate laws from sources other than Islām are not included in it, because the lands of Islām are free from this shame. He established it with regards to the mujtahid scholars who derive rulings before they are established from what the Book and the authentic Sunnah indicate, and draw analogy and engage in ijtihād by their opinions on other than authentic foundations, so he said in the Risālah, issue number 178 with our sharḥ and taḥqīq: *And the one who undertakes what he is ignorant of and regarding what his comprehension is not established, then agrees with what is correct – if he agrees with it without to comprehend it then that is*

not praiseworthy, and Allāh knows best, and the error he has fallen into is not excused if what he spoke about he was not properly knowledgeable of in order to distinguish between truth and error. And the meaning of this is that the mujtahid is not excused if he does ijtihād without proper comprehension, and without solid research into evidences from the Book and the Sunnah, Even if he gets the ruling right by chance. He did not build upon evidence and certainty, nor did he build upon correct ijtihād. As for the one who does ijtihād and legislates (!!) upon principles outside the realm of Islāmic principles, then he is neither a mujtahid nor a Muslim, regardless of whether he intended what he wanted to fabricate of rulings to agree with or oppose Islām. Where they agree with what is right, he agreed with it without to understand it, rather without to intend to agree with it. This does not help strip them off kufr where they oppose Islām, and this is self-evident. This is not the place to investigate and explain this issue in detail, and it is not related to the example at hand. But, it serves as an introduction for what's to come. An example: We see many from the Muslims contract with them, implement their laws and stand in their favour by judging by them, explaining them or defending them, We see them as Muslims from what is clear from their actions – they are keen on praying ṣalāh, on fasting, paying zakāh and generous in their sadaqah, feeling themselves secure. Their performance in ḥajj is the best which a Muslim man may reach, yet we see some of them who are about to go on ḥajj – them and their families every year – that they are extremely deficient in their dīn, in terms of drinking alcohol or dancing or partaking in immoralities, and in what they do of Islām they feel themselves secure as Muslims, pleased with their deeds with certain belief that they are secure. But, once they exercise their authority in the judiciary, legislation or legal defense, they adopt these laws and run in them like Shayṭān runs in veins, keen to apply their principles and defend them, the way a man who is intellectually convinced and believes in a thing that it is right and nothing else is right, forgetting about Islam in their legislating – except for some of them who delude themselves into thinking that these laws are based on Islam as a source of legislation! While in writing of their laws they are keen to make sure that their legislation conforms to what has been commanded by the Europeans in their tenets of modern legislation, as was stated repeatedly in their statements and writing. As for their accursed tenets of modern legislation,

then they are invided into three categories: The legislator, the defendant, and the judge – they have some things in common and other things they each have specific to themselves, but their outcome is one and the same. As for the legislator, then he puts these laws in place and believes in their correctness and that of whoever acts upon them. So his condition is clear regardless of whether he fasts, prays, and claims to be a Muslim. As for the defendant, then he defends either with truth or with falsehood. So if he defends with falsehood which contradicts Islām believing that it is correct, then he is just like his colleague the legislator. And if his case is other than that, then he is a pure munāfiq, whatever he's excusing himself with that he is obliged to defend with this. And the judge, his condition requires research. He may find excuses for himself in that he only judges by what agrees with Islām from these laws, however with proper verification, this excuse does not hold any value. As for where he judges by what opposes Islām, what is transmitted in text from the Book and the Sunnah, and what evidences from them point towards, then he is certainly from those who enter into this ḥadīth: that he commands with disobedience according to these laws which he sees obligatory upon himself to follow or obey their commands to disobedience, rather what is worse than disobedience – that he contradicts the Book of Allāh and the Sunnah of His Messenger, so there is no listening nor obedience here, then if he listens and obeys, upon him is the same burden which is upon the one commanding him, who put these laws in place, and they are both alike.

4. The senior men from those who we call the lawyers have fabricated something resembling this principle (of listening and obedience) with respect to these laws which they put in place. The State Council made up two principles, where if a common law conflicts with the state law or the constitutional law, the constitution takes precedence and common law should not be applied by the courts if it conflicts with the constitutional law. The State Council is the highest of judicial bodies, all of which are subjected to its judgement according to administrative decisions issued by the government, if their judgements happen to contradict the existing laws. These principles have been issued by the first assembly of that council, headed by Muhammad Kāmil Mursī Pāshā, the author of the State Council law, or the one who partook the most in its issue, established the first presidency, coined these principles and established

their pillars. The first of these principles on which they have decided is that *The Egyptian law does not prevent the Egyptian courts from undergoing research into constitutional laws, let alone legal decrees, whether in terms of similitude, or theme.* And the second: *The Royal Decree No. 42 of the year 1923 is the undisputable constitutional regime of the Egyptian state, and one of the laws that the courts should apply. But, it is distinguished from the rest of the laws by virtue of its particular quality, characterized by its loftiness and defined as sovereignty, with its protection of liberties and security, the constitutional regime, and ruling system. What follows from that is that if a common law is in conflict with the constitution regarding a dispute from disputes which are brought up at courts, a complication arises where neither of the laws can be applied, and the judicial office must address this difficulty and distinguish between the two in terms of the principles of this office and its defined constitutional borders. In this particular situation where such a conflict arises, the common law may be overcome by the constitutional law which is implemented as a higher priority. This does not exceed its legislative authority, as long as the court does not establish a legislation, or eliminate an existing law, or command to stop its implementation. And the goal of this is to separate between the two confused laws, detail the difficulty at hand, and decide which one of the two is preferred in application. And if the common law is foregone, then that is due to the sovereignty of the supreme constitution over other laws, which must be enforced by every judge and lawmaker (meaning the legislator!!).* (Case n. 65, year 1 of the judiciary, in the collection of rulings of the State Council. Author: Muhammad 'Āṣim 1/377-379). So what is obvious and self-evident and impossible that a Muslim opposes this, is that the Qur'ān and the Sunnah are higher and loftier than this "constitution" and all laws, and that Muslim does not become a Muslim until he obeys Allāh and His Messenger, and prefers their ruling over every other ruling and law, and that if anything is brought up which conflicts with the solid sharī'ah based on the Book and authentic Sunnah, it becomes obligatory to discard it, and conform with the command of Messenger of Allāh in this ḥadīth: *and when he is commanded with disobedience then there is no listening and no obedience.*

وما كان لمؤمن ولا مؤمنة إذا قضى الله ورسوله أمرا أن يكون لهم الخيرة من أمرهم ومن يعص الله
ورسوله فقد ضلّ ضلّالاً مبيناً

It is not for a believing man or a believing woman, when Allah and His Messenger have decided a matter, that they should [thereafter] have any choice about their affair. And whoever disobeys Allah and His Messenger has certainly strayed into clear error.¹

ألم تر إلى الذين يزعمون أنهم آمنوا بما أنزل إليك وما أنزل من قبلك؟ يريدون أن يتحاكموا إلى الطاغوت وقد أمروا أن يكفروا به ويريد الشيطان أن يضلهم ضلالا بعيدا. وإذا قيل لهم: تعالوا إلى ما أنزل الله وإلى الرسول، رأيت المنافقين يصدون عنك صدودا فكيف إذا أصابتهم مصيبة بما قدمت أيديهم، ثم جاءوك يحلفون بالله: إن أردنا إلا إحسانا وتوفيقا ألنك الذين يعلم الله ما في قلوبهم فأعرض عنهم وعظهم وقل لهم في أنفسهم قولاً بليغا - إلى قوله - فلا وربك لا يؤمنون حتى يحكموك فيما شجر بينهم، ثم لا يجدوا في أنفسهم حرجا مما قضيت ويسلموا تسليما

Have you not seen those who claim to have believed in what was revealed to you, [O Muhammad], and what was revealed before you? They wish to refer legislation to Ṭāghūt, while they were commanded to reject it; and Shayṭān wishes to lead them far astray. And when it is said to them, "Come to what Allah has revealed and to the Messenger," you see the hypocrites turning away from you in aversion. So how [will it be] when disaster strikes them because of what their hands have put forth and then they come to you swearing by Allah , "We intended nothing but good conduct and accommodation." Those are the ones of whom Allah knows what is in their hearts, so turn away from them but admonish them and speak to them a far-reaching word. - Until He said - But no, by your Lord, they will not [truly] believe until they make you, [O Muhammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission.²

أفحكم الجاهلية يبغون؟ ومن أحسن من الله حكما لقوم موقنون؟

Then is it the judgement of [the time of] ignorance they desire? But who is better than Allah in judgement for a people who are certain [in faith].³

¹ Q33:36

² Q4:60-65

³ Q5:50

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